

In the Court of Appeals of the State of Alaska

Scott A. Walker,

Appellant,

v.

State of Alaska,

Appellee.

Court of Appeals No. **A-13075**

Order

Request for Review of Clerk's Intention
to Enter Judgment for Costs of
Appointed Attorney

Date of Order: **9/8/21**

Trial Court Case No. **3AN-13-08176CI**

The Appellant, Scott A. Walker, filed a felony merit appeal, challenging the superior court's dismissal of his application for post-conviction relief. In *Walker v. State*, Alaska App. Memorandum Decision No. 6916 (December 30, 2020), this Court affirmed the superior court's dismissal of Walker's application for post-conviction relief.

Mr. Walker was represented by counsel at public expense in this appeal. Under Alaska Appellate Rule 209(b)(5), at the conclusion of any appellate case in which a criminal defendant is represented by court-appointed counsel, the Clerk of the Appellate Courts is directed to "enter judgment against the defendant for the cost of appointed appellate counsel unless the defendant's conviction was reversed by the appellate court." Because Mr. Walker was represented by court-appointed counsel in this appeal, because Mr. Walker's appeal was a felony merit appeal, and because Mr. Walker's conviction was not reversed, the Appellate Court Clerk's Office notified Mr. Walker that it intends to enter judgment against him in the amount of \$1500.00 for the cost of counsel. *See* Alaska Appellate Rule 209(b)(6).

Mr. Walker objects to the Clerk's notice. Because Mr. Walker objects to the Clerk's intent to enter judgment against him, he is entitled to judicial reconsideration of the Clerk's decision. *See* Alaska Appellate Rule 503(h)(2)(A).

Appellate Rule 209(b)(5) and (6) require criminal defendants whose convictions are not reversed on appeal to reimburse to the government a portion of the cost of the attorneys who represent them at public expense. In his opposition to the entry of judgment for the cost of appellate counsel, Mr. Walker contends that (1) he appealed an agency decision that cannot result in a reversal of his conviction, and (2) he is incarcerated and has very limited funds.

Although Mr. Walker sought review of an agency decision in the superior court by filing an application for post-conviction relief, he then appealed the superior court's decision to dismiss his application. An appeal from post-conviction relief proceedings is specifically listed in Appellate Rule 209(b)(6) as an appeal that requires the Appellate Clerk to enter a judgment for the cost of appellate counsel. Additionally, the Court also recognizes that incarcerated appellants are often indigent and therefore have limited funds. Indigence, however, is not a sufficient ground for waiver of the requirement to pay the cost of appointed counsel; nearly all persons with appointed counsel are indigent, but the rule applies unless the conviction is reversed.

Because this Court did not reverse Mr. Walker's conviction in this appeal, Mr. Walker is required to reimburse to the government a portion of the cost of the attorney who represented him at public expense. Accordingly, the decision of the Appellate Court Clerk to enter a \$1500.00 judgment against Mr. Walker for the cost of counsel under Appellate Rule 209(b) is **AFFIRMED**.

Entered at the direction of Chief Judge Allard.

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Clerk of the Appellate Courts



Ryan Montgomery-Sythe,
Chief Deputy Clerk

cc: Scott Walker at Goose Creek Correctional Center

Distribution:

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